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COURT OF APPEALS  
DIVISION II

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STATE OF WASHINGTON

BY

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DEPUTY

Case No. 55531-0-II

(re: Clark County # 20-2-00406-06)

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON  
DIVISION TWO

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John Garrett Smith

Petitioner

Vs.

Anthony Golik

Respondent

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Writ of Mandamus

APPELLANT'S OPENING BRIEF

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'Brady v. Maryland', 373 US 83, 10 L.Ed.2d 215 (1963)  
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RCW 42.56.010, -.080, -.120, -.510  
RCW 2.08.240  
UN - U.D.H.R. (1948)

## **A. Assignments of Error**

I. The trial court erred in ignoring the Public Records Act (RCW 42.56) with respect to a simple, lawful disclosure of a simple, identifiable Public Record (as plainly defined in RCW 42.56.010, -.080, -.120, -.510).

II. The trial court erred in its ex-Parte Order after over Fourteen (14) months of totally ignoring the Petition for Writ of Mandamus for Obedience to Seminal Law and refusing to "hold court" in violation of CJC 2.9(a)(1)(b), CR 54(f)(2) and RCW 2.08.240.

III. The trial court remains in consummate error because it is patently and aggressively concealing ongoing Felonies in violation of RCW 9A.72.020, RCW 40.16.010, -.020, -.030, RCW 42.56.010, and 18 USCS §§ 3, 4.

## **PRIMAL ISSUE PERTAINING TO ASSIGNMENTS OF ERROR**

This is a remarkably simple case.

A criminally forged audio recording remains the solitary evidence for the solitary charge (2nd. deg. attempted murder) in Petitioner's Judgment and Sentence ( 'State v. Smith', 196 Wn.App 238-239 (2016), in Clark County #13-1-01035-6).

This Fact is in patent violation of State, National and Universal Human Rights (U.N. - UDHR, 1948), and 'Halsey v. Pfeiffer', 750 F.3d 273, 292-3 (3d. Cir., 2014) : "No sensible concept of ordered Liberty is consistent with law enforcement cooking up its own evidence."

Petitioner seeks Writ relief to simply disclose the Actual Public Record [ "Play The Real Voice

Mail - It's The Law" ] because Respondent and Superior Court obdurately ignore seminal and simple Public Records Act laws.

#### B. Statement of the Case

This instant Appeal is for the lawful Public Disclosure (per RCW 42.56, etc.) of a Public Record in Clark County #13-1-01035-6.

NOTE: All Court Proceeding (CP) Records cited herein are from the original Clark County Case #13-1-01035-6, because THERE ARE NO RECORDS IN THIS WRIT PETITION BECAUSE THE SUPERIOR COURT NEVER CONDUCTED ANY PROCEEDINGS, one of the core drivers of this instant appeal.

Based upon a ruling already made by THIS COURT OF APPEALS ( 'State v. Smith', 196 Wn.App 238-239 (2016)), the entirety of Smith's present conviction hangs on the alleged sound recording that has never been actually revealed from its authentic source, an Oregon-corporate iPhone (that was suspiciously and unlawfully logged into VPD custody 38 minutes BEFORE the spuriously alleged crime of attempted murder).

The Respondent and the Superior Court have repeatedly refused to disclose the Actual Sound Recording but rely instead on a "copy" that has been independently and redundantly certified by acoustic forensic experts to be fake (these sworn testimonies are included in the Original Petition, Clerk's Index #1, dated 10.6.19, but not filed by the Superior Court until 2.7.20 for unknown reasons).

Based upon the manufactured copy, the voice recording on the Petitioner's iPhone ostensibly contains a defensive "threat to kill" (CP 2A, 205, 13).

In spite of unanimous professional medical testimony affirming the absence of material evidence indicative of any steps to kill (CP 3B, 839-847), the "copy" of the recording has sustained a Judgment and Sentence for Eight (8) years. Despite repeated requests (per RCW 42.56) for disclosure of the "real recording from the actual device that it is ostensibly stored in", Respondent and Court persistently refuse to obey this mandatory transparency (CP 2A, 207, 14-16, and 211, 3-11) guaranteed in the Public Records Act (RCW 42.56).

Redundant professional acoustic experts have sworn that the State's 'copy' is fake - a digitally-synthesized, computer-spliced "Frankenstein" amalgamation of noises (Affidavits of Fraud that invoke ER 1003 are included in Clerk's Index #1).

Petitioner seeks Writ of Mandamus to simply uphold the Public Records Act in order to reveal/disclose the "actual" sound recording that is "actually" stored in the iPhone.

Multiple ubiquitous laws that are fully developed in the original Mandamus Petition require disclosure of the real recording, including, but not limited to, RCW 42.56, ER 1003, 'Brady v. Maryland', 373 US 83, 10 L.Ed.2d 215 (1963), etc., et. al.

These laws are not complex. They are simple.

Moreover, in light of Sandra Aldridge's criminal actions in violation of RCW 9A.72.020, 40.16.010, -.020, -.030, and 42.56.010, Respondent's, and the Court of Clark County's outright refusal to comply with Public Disclosure requirements is, itself, felonious pursuant to 18 USCS §§ 3, 4.

### **TIMELINE OF EVENTS**

i) Since 2013, government officials in Vancouver (not B.C.), Washington (not D.C.), including Defendant Anthony Golik, have been unlawfully concealing an audio record, a "Voice Mail" allegedly recorded on an iPhone belonging to Smith, concealment that is violative of RCW 42.56, ER 1003, 'BRADY' Protocol, etc., especially because the alleged recording remains the solitary evidence for the solitary charge of 2nd. deg. attempted murder in Petitioner's Judgment and Sentence ( 'State v. Smith', 196 Wn.App 238-239 (2016), in Clark County #13-1-01035-6),

ii) On 6 October 2019, Smith filed a Petition for Writ of Mandamus (Clerk's Index #1) in Clark County Superior Court for the lawful disclosure of an audio Public Record, as required under the Public Records Act, and especially because redundant professional acoustic experts have sworn that the State's 'copy' is fake - a digitally-synthesized, computer-spliced "Frankenstein" amalgamation of noises (Affidavits of Fraud that trigger both prongs of ER 1003(1)(2) are included in Clerk's Index #1),

iii) Clark County Superior Court never acknowledged Smith's 10.6.19 filing,

iv) In the late Spring of 2020, private investigators working with Smith discovered that on 7 February 2020, Clark County Superior Court had assigned Case No. 20-2-00406-06 to the Petition that Smith had filed 4 months earlier but the Superior never notified Smith despite his filing of over seven (7) formal inquiries,

v) Following 7 more months of Clark County Courts and Officials ignoring over seventeen (17) of Smith's duly-filed efforts to seek redress, on 17 September 2020, Smith filed another Citation for Hearing, a Motion for Default Award, and a formal protest of Judge J.P. Fairgrieve's breach of RCW 2.08.240 - Forfeiture for Apathy (Clerk's Index #21),

vi) On 2 October 2020, Smith received a "MEMORANDUM" (Index #26) dated 28 September 2020 from Whitney Freeze, Judicial Assistant, Clark County Superior Court #6, stating that a hearing on 25 September 2020 (a hearing that Smith was neither notified about, nor allowed to be present at) had "not been recorded", and that Smith was to "notify the court if you wish to have the matter reheard",

vii) On 3 October 2020, Smith formally responded to the 9.28.20 MEMORANDUM (Index #s 27 and 28), clarifying that because the matter was never "heard" in the first place, the notion of it being "reheard" was inappropriate, and that "Yes, if course I still wish for this simple legal matter to be duly and lawfully heard",



viii) No hearings regarding this matter have EVER occurred that Smith was notified of, or present at, and Smith has not been provided a copy of the "Writ of Mandamus" (Index #38, 11.10.20),

ix) On 4 January 2021, Judge J.P. Fairgrieve issued an ex-Parte Order (Index #39) dismissing the indissmissible Mandamus case without cause,

x) On 10 January 2021, Smith duly filed this instant appeal in this Court (Index #41) pleading for relief from BOTH (a) the Superior Court's ex-parte legerdemain, AND (b) the Superior Court's, and the Defendant's patent refusal to lawfully address the plain legal merits of the original Petition itself.

### **C. Argument**

This cause is as simple as its remedy is axiomatic.

#### **I. THE PUBLIC RECORDS ACT IS NON-DISCRETIONARY**

There is simply no valid, tenable, ethical, moral or Legal justification for NOT immediately disclosing a real audio recording that is a simple Public Record, especially when Evidence Rule 1003 is doubly-tripped by the Defendant's use of a forged, felonious "copy".

Per 'Cheney v. USDC for D.C.', (03-475) 542 US 367 (2004), "a writ of Mandamus is an Order from a Court to an inferior government official to order that official to properly fulfill their official duties, or to correct an abuse of discretion" - precisely THIS type of exceptional, AND exceptionally obvious, instance of the Defendant's CRIMINAL abuse of his position in order to sustain a blatantly hostile and anti-Constitutional theft of Liberty to conceal a theft of Property. This Court should reverse the 1.4.21 Dismissal and Order Anthony Golik to, finally, after Eight (8) years of fatuous fraud, to "Play The Real Voice Mail, Because It's The Law".

## II. EX-PARTE ORDERS ARE INVALID

"Failure to comply with the Notice Requirement in CR 54(f)(2) generally renders a trial court's entry ... VOID", per 'Burton v. Ascol', 105 Wn.2d 344, 352, 715 P.2d 110 (1986).

Code of Judicial Conduct 2.9(a)(1)(b) prohibits the trial court judge's recurring ex-parte hyjinx. RCW 2.08.240 actually calls for the formal relinquishment of that judge's presumed, but forfeited, authority.

At last, after nearly a decade of obvious juridic nonsense, this Court should overturn the nugatory 1.4.21 Order of Dismissal (Index #39) of a valid and merit-rich Petition that is saturated with simple, uncontested res judicata.

## III. THIS REFUSAL TO DISCLOSE A PUBLIC RECORD IS TANTAMOUNT TO CRIMINAL CONCEALMENT OF FELONIOUS CRIMES

The panoply of Laws found in RCW 9A.72.020, RCW 40.16.010, -.020, -.030, and RCW 42.56.010, -.080, -.120, -.510, enforce the obvious: tampering with and/or forging a Public Record is a Felony.

Of course, then, pursuant to 18 USCS §§ 3, 4 - Accomplicement and Misprision - the criminal conduct compounds with continuing efforts to conceal ANY (let alone real exculpatory) evidence whose disclosure is mandatory per 'BRADY' boundaries EVEN IF SMITH NEVER REQUESTED DISCLOSURE.

Accordingly, this Court should exercise prudent haste to bring an end to this now patently obvious juridic malfeasance. Indeed, failure to do so can only amplify serious criminal liabilities. Eight (8) years after the fraud commenced, it's time to stop the illegal, banal treachery.

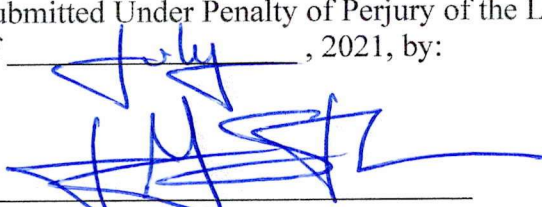
#### **D. Conclusion**

These are grave matters of law with momentous significance.

Petitioner Smith requests and provides superabundant cause for this Court to not only overturn the Superior Court's wanton Order, but also to Order the production of the Original Audio Recording described in the Writ of Mandamus, as stored in the ACTUAL iPhone seized by the VPD, so as to allow Petitioner's audio experts, and law enforcement officials, to have access to the REAL evidence.

Forty-Eight (48) years after a watershed American Mandamus that was "utilized ASAP because of the public interest in ending the controversy over real recordings", 'Nixon v. Sirica', 487 F.2d 700 (DC Cir., 1973), res judicata now calls for Mandamus Writ to dutifully expose the extraordinary threat to free civilization when State government officials are enabled to terrorize innocent citizens with "fake recordings" to steal Property and Liberty.

Submitted Under Penalty of Perjury of the Laws of The United States on this 19<sup>th</sup> Day of July, 2021, by:

  
\_\_\_\_\_  
John Garrett Smith  
#351176  
LARCH CORRECTIONS CENTER  
15314 NE Dole Valley Road  
Yacolt, WA 98675

CERTIFICATE OF SERVICE

Per GR 3.1, I do hereby Certify service of the foregoing APPELLANT'S OPENING BRIEF in Case No. 55531-0-II (re: Clark County # 20-2-00406-06, Petition for Writ of Mandamus) to the following via US "Legal" Mail from Yacolt, Washington:

**< Washington State Court of Appeals >**

DIVISION TWO

909 A Street, Ste. 200

Tacoma, WA 98402

**< Superior Court of Clark County >**

1200 Franklin St.

PO Box 5000

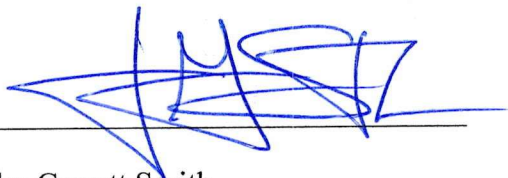
Vancouver, WA 98666

**< Prosecuting Attorney of Clark County >**

1300 Franklin St.

PO Box 5000

Vancouver, WA 98666



John Garrett Smith

7.19.21

Date